App F IX 4

1935-36
(mel)

File No 26 - 35

Previous References
mel 26-35-11, 12, 20, 22, 24
mel 26-35-29, 30, 31

Serial Nos 17, 28, 33, 38, 39, 46, 41,

Later References
mel 26-35-(42)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 7

Part B for June 1936

SUBJECT.

Disability of Mr Manadaiah from Continuing as a Member of the Mysore city mel cl

Sl 41) The President city mel cl Mysore
No L9695 D 25/6/36
upholds the order of the President
and rejects the appeal petition
Mr Manadaiah
No L9696 D 25/6/36
informs him of the above

1/7/36

Municipal councillors — disqualifying

L 1269 / 1310.

General and Revenue Secretariat | File No | of 193 | [App F III-2

Pln dated 14/9/35 from sri Mariyadasaya municipal councillor, Mysore, appealing against the order given previously by civil and Mysore declaring that he is unable to continue as such under Sec 12 a)(e) Mysore Act, as he did not comply with the terms given special notice served upon him - etc.

1 Chief Secy's orders on the Pln

unstamped

Dated 16/9

2 Draft Govt is submitted for approval or orders

16/9 17/9

3 For perusal before issue

Chf Secy) 17/9

4 18/9

5 Issue

18/9

Issued vide 2196 of 19/9/35 to Pln. / Regrets the Pln as unstamped

Petition dated 23/9/35 from sri Mariyadasaya Adikaramalakappa, Mysore, submitting the petn duly stamped.

19/9

6 Submitted for orders. A report has been called for on the petn of Mr. M. K. Krishnarao

witness

26/9 / 30/9

For orders if a report was received Mysore called for in this case also

(A new point has been raised in this case, viz, whether the President was competent to issue the special notice)

NOTE—Contn Sheet

Chf Secy) 26/9

7 Please forward Govt Pln dtd 14/9/35 26-9-35 : Dewey

Municipal Commissioner Mysore.
L 1390

File No 26 of 1935

General and Revenue Secretariat

11/ Submitted with a draft for approval
JE 30/9 MV 30/9 — 12/ Issued 30/9 --

Issued vide 3388 of 1/10/35. Pamphlet at 18
Mysore. — Requires the Commissioner for a report with connected records --

TYPIST 1 OCT 1935 GENL & REV SECTT

Letter No G.T 1092 dated 13-11-1935 from the President, City Municipal Council, Mysore forwarding 28
a detailed report in the matter with the connected records

13 The grounds on which the appeal has been made by Mr Mandanna are the following.—

1) The President was not competent to issue the special notice

2) He had paid off all the taxes by 3-9-35

3) Sewage Farm dues cannot be included under the term "arrears"

4) The demand for 1934-35 cannot be treated as arrears

5) The date of service of the special notice was not 3-6-35 but some later date.

In his report, the President, City Municipal Council, has answered all these points in detail. Regarding point 1) kind reference is invited to para 27 of the notes in file No 26-35 (II 24) wherein it has been held that the President has power to issue the special notice

Disqualification of Mr. Marudandiah, Mc councillor, Mysore

1390 / 2192/4

General and Revenue Secretariat | Mc File No 26 of 1935 | [App F III—2

Serial No

Point 2) It is reported by the President that a sum of Rs 4 was paid by Mr Marudandaya on 6-9-35 and another sum of Rs 32-4-7 on 12-9-35 and that the arrears had not been paid in full before 3-9-35

Points 3 & 4 are similar to those raised by Mr M.K Krishna Rao in a similar appeal case. Kind reference is invited to para 20 of the notes in file Mc 26-35 (11-24). Pathis marked B & B (29.3.36).

(See the Annexure Marudandiah file)

As regards point 5) Mr. Marudandiah has himself given a written statement to the effect that he received the special notice on 3-6-1935 and that he had put the date of acknowledgement in the delivery book as 3-8-35 by mistake

It will therefore be seen that the special notice was served upon Mr Marudandiah on 3-6-1935 and that he had not paid the arrears of taxes in full within 3 months from 3-6-35 allowed by law.

Submitted for orders

Ex

Rmm 18/11 MV 18/11

14. The legal opinion given in Mc file 26-35 relating to Mr K. Krishna Rao's case does not deal with the points 3 & 4 referred to above. The law officers may be consulted in the matter.

Chiefsecy) Asst 20/11

15 Yes, after issue of orders in the Marudandiah file re. the Annuity Marudandiah

Asst 20/11 MV 20/11

JO1E—Contn Sheet

WD 03594—GPB—30,000—13 7 35

2 of 38

Disability of Mr Mandanaiah, Mc councillor, Mysore city

4.

File No 26 J 2192 of 1935-36 General and Revenue Secretariat

16. Orders have issued in the other file rejecting the appeal

Rem from 28/11

17 For favor of opinion as to the points nos (3) & (4) in para 13 above

Asstt Secy, Law

Law Asst 28/11

133 - Law Asst 28/11

16

As re: point no 3 raised that money due in respect of the Sewage Farm cannot be the subject matter of a special notice under sec 12(3)(e), it is significant to note that the words used in the clause are "arrears of any kind due to the municipal council". The arrears therefore need not be arrears of tax ~~only~~ only as contended by Mr Mandanaia but it ~~may~~ includes all kinds of arrears due to the M C. But whether the rent ~~due~~ claimed in respect of the Sewage Farm was an arrear due to the M C on the date of the special notice is a point which depends on the terms of the contract under which the plot in question was let out and also on the truth or otherwise of the

Serial No

allegations made in para 7 of the petition -

19. As regards the other point raised namely, whether the demand for 1934-35 can be treated as arrears due on 3rd June 19. I think that the word "arrears" must include all payments which ~~have become~~ became due and remained unpaid ~~till~~ on 3rd June 1935. As observed in 35 Cal 34 the word "arrear" involves the idea not merely of money unpaid but of money unpaid at the due time. It involves the existence of some default on the part of the debtor. Now under the M'L Regn, there is no duty imposed on a tax payer to ~~pay~~ pay the tax without a proper bill & notice of demand. In fact in 24 Mys C.C.R 69 it has been held that a suit by a M'C'L ~~for~~ for recovery of arrears is not maintainable in the absence of a proper bill & notice of demand In this case nothing is said about this - If there has been such a bill & notice previous to the special notice, then the special notice would be in order, otherwise not.

B-

asst Secy Regs } MM
with Compts } 10/12

NOTE—Contn Sheet

WD 03594—GPB—30,000—13 7 35

6

Disability of Mr Marudanayagam, Municipal Councillor, Mysore City

Mc File No 26	2192 - L of 193 5-	General and Revenue Secretariat

20 If approved, information on the points referred to at A & B in the Law Secy's note will be called for from the President

Chief Secy) VAM 16/12

YS 18/12

VAM 18/12

CHIEF SECRETARY 11 DEC 1935

29

Draft submitted for approval.

Rem 14/12 MM/MM/12

YS Issue VAM 14/12

The President, City Municipal Council, Mysore — 33

No L 4676 dated 18-12-35.

Calls for certain information

TYPE DEC GENL & REV SECT 14 DEC 193

Sus A 18/12 M

Reminder petition dated 29-1-36 from Mr Marudanayagam — 34

praying for the issue of a stay order and that he may be permitted to attend the council meetings.

YS The information called for from the President has not yet been received. He has however been reminded on 31-1-36

Rem 7/2 MM/7/2

YS He might be reminded again on the 15th, if no reply is received by then

VAM 7/2

Sus A (urgent) 11/2/36.

Disability of Mr. Maridandiah, Mc Councillor, Mysore city

5383 P 38

2192 ∫ 3424 ∫ 3850-

General and Revenue Secretariat | Mc File No 26 of 1935 | [App F III—2

Serial No	
38	Letter No 9 T 1764 dated 20-2-36 from the President, city Municipal Council, Mysore, forwarding a report in the matter-
	Vb The President has furnished detailed information on all the points-
	29 Submitted for orders with reference to paras 18 & 19 supra
	Rem 26/2
	28 For favour of further remarks
	Asstt Secy, Law Dept (now Camp) Asstt 27/2
133 Law Dept 28/2	
	29 Ref^ce paras 18-19 supra
	30 Both the points raised at 'A' and 'B' in the para referred to above have been answered in para 18 of the P W D In the circumstances pointed out there in, the special notice issued for the arrears due from the petr^s, seems to be in order The Contentions raised in the petition are untenable
I am not sure of this point 4/3	
TSD 4/3	V. O. NB 1/54 dt 5-3-36
	31 Forwarded with compliments to the Govt advocate for favour of his opinion in the matter.
	M Govindarao 4/3/36
No DD 780/35-36 dt 5.3.36	
	Returned with compliments
No DD 158/35-36 dt 7-4-1936	32 Mr Maridandiah's contention that the Sewage Farm dues are not arrears within the meaning of -
	Clause

NOTE—Contn Sheet

WD 03594—GPB—30,000—18 7 35

Clause (e) of Section 12(2) of the Regulation is clearly opposed to the language of the section. The expression 'arrears of any kind due to the Municipal Council' are comprehensive enough to include the dues in question and this point must therefore be decided against the appellant.

33 The other question for consideration is whether the demand for 1934-35 cannot be treated as arrears. The Special Notice issued to the appellant contained an aggregate demand for Rs.87-13-1 made up of Rs.13-11-9 towards Municipal Taxes, Rs.6/- towards the Flat Rate and Rs.68-1-4 towards Sewage Farm dues. The papers sent to me do not give any information as to when these amounts became due. Nor is it clear which of those items or what portion of it is contested by the appellant as a premature demand. The correspondence shows that before 3-9-1935 the appellant paid a sum of Rs.51-8-6 and that the balance was not paid until it was too late. In these circumstances the aforesaid information would be necessary for a decision of the point raised by the appellant. Even in his memorandum of appeal the appellant does not give these particulars but makes a vague and indefinite statement that the current demand for the year 1934-35 has been wrongly included in the special notice. I would therefore suggest that the appellant may be called upon to formulate his objection more precisely and to specify the items he disputes.

34 The file may be kindly sent to me with this

Appeal of Mr. Marisamiah Mysore city

General and Revenue Secretariat | File No 261 of 1935-36 | App F III—2] | 9

Serial No

this information together with the remarks of the President of the Municipal Council thereon. Copies of the Rules and Bye-Laws both under the old Regulation and under Section 49 of the New Regulation may also be kindly sent with the file.

M Nagesvara Rao
Government Advocate.

CSN/4.4.36

35 L & S dy Br for further action
9/4/36

9/4

36 Draft to the President, Mysore city Municipality is submitted for approval

Rmr 11/4

37 Chief Secy) 11 4 36

38 Rmr 11-4-36

39 Mue. 14/4

39 To the President, city Municipal council, Mysore
Dr 2 7860 dated 16-4-36

Requests that Mr. Marisamiah may be called upon to specify his objections and that his statement forwarded along with his remarks—

Secy A W 17/4

17/4

NOTE—Contn Sheet

GENERAL SECTT 8 APR 1936

17 APR 1936

TYPING SECTION 14 APR 1936 GENL & REV SECTT

WD 03e53—G PB—50 000—8 7 35

Disability of Mr Marudandiah from [redacted] Councillorship of Mysore city.

Mr File No 26 3550 / 5201 / of 1935

General and Revenue Secretariat

Letter No. B/T 2368 dated 9-5-36 from the President, City Municipal Council, Mysore, forwarding a report in the matter. 40

40) The Statement of Mr Marudandiah is enclosed in original by the President He therein states that the Sewage Farm dues amounting to Rs 68-1-4 and the taxes for the house properties for the year 1934-35 cannot be construed as arrears for purposes of issuing notice in the year 1934-35. The President has furnished his remarks thereon on the statement that the amount in question has to be treated as arrears.

(1) A copy of the Rules & By laws of the Municipality is also put up

Submitted for orders

Rmr M
13/5

41) The file may be referred to the Govt Advocate with reference to para 32 supra.

MS
18/5

42) Forwarded with compliments to the Govt Advocate for favour of remarks with reference to para 32-34 supra.

By order

Asstt Secy

for Chief Secy to Govt

Rmr

Returned

Rom 164 35
B/13-5-36

5201
F

General and Revenue Secretariat | File No | of 193 | [App F III—2

Serial No

Ro no 206/35-36
dy 17-6-36

Returned with compliments.

43) The details furnished by the petitioner do not also furnish precisely the information wanted. His main - contention, however, seems to be that the sewage farm - dues cannot be treated as arrears coming within the -- scope of section 12 (2) (e). That contention does not seem to be tenable as pointed out in my previous note.-

44) The only other question for consideration now is whether he was actually in arrears when action was taken against him under that section by the President. The amount due by the petitioner on account of the sewage farm is Rs.19-0-8 a year payable in two instalments in the months of June and December. The amount claimed in the notice on that account is Rs.68-1-4. Though the instalment - payable in June 1935 cannot be said to be in arrears when the special notice was issued, it is yet clear he was - heavily in arrears by then. The inclusion of the amount payable in June 1935 in the notice does not however seem to vitiate the notice. Further, the notice was issued not for recovering the muncipal dues under Chaper VIII, but only for taking action under section 12 (2) (e).

45) I, therefore, think that the contentions urged by the Petitioner are not tenable.

Government Advocate.

H/17.6.1936.

46) Subd for orders

2nd Assembly

17-6-36

OFFICE OF THE SECOND MEMBER OF COUNCIL. 18 JUNE 1936 9839

CHIEF SECRETARY. 17 Jun 1936

Note—Contn Sheet

WD 03594—GPB—30,000—13 7 35

12 Disability of Mr Narasaraiah, Mr councillor, Mysore city.

Sarl.

File No | of 193 . | General and Revenue Secretariat

9839

47) The President view that the petn was disabled from continuing as a councillor must be upheld & the petn rejected

Mee
18/6/36

Asst
18/6

A draft l.o and a draft endorsement to the petitioner are submitted for consideration.

Asst
19/6

Chief Secy

Asst
22/6

Issue
Asst 24/6

CHIEF SECRETARY.
22 JUNE 1936

TYPING SECTION.
24 JUN 1936
GENL & REV SECTT.

The President, city Mcl, Mysore
No L 9695 dt 25-6-36
Upholds the order of the President & rejects the appeal petition

Mr Narasaraiah
No L 9696 dt 25-6-36
Informs him as above

41

BV
29/6

13

COURT FEE ONE RUPEE

COURT FEE ONE RUPEE

VIII 1390/2

Before the Government of His Highness
the Maharaja of Mysore,
Bangalore.

ml 26-35-17

Appellant:-

B.L.Maridandiah,
Palace Pensioner, Adikarnatakapura,
M y s o r e.

The appellant abovenamed begs to prefer this appeal from the order of the President, City Municipal Council, Mysore, in his Memo No.135 of 12-9-1935 disqualifying him from his membership of the Municipal Council, Mysore, on the following among other grounds:-

1. That the President was not competant to issue such a special notice in the absence of such a power being delegated to him by the Municipal Council. The special notice in the circumstances is ultra-vires and the appellant can incur no disqualification in the circumstances.

2. That the appellant had paid off all arrears of taxes by the 3rd September 1935 and much more than the same.

3. That out of an alleged demand of Rs 87-13-1 - the amount due to the Sewage Farm towards the lease amount for the taking of some plots represents as large a sum as Rs 68-1-4.

4. That the said lease amount cannot be

construed to be arrears as contemplated under S. 12 Cl 2 (e) of the City Municipalities Regulation, which obviously refer to arrears of taxes.

5. Further, in the special notice they have wrongly included the current demand for the year 1934-35, whereas the section expressly referes to arrears. A notice including the current demand is obviously illegal and untenable under S 12 Cl 2 (e) of the City Municipalities Regulation.

6. In spite of this wrong notice the appelant has paid as much as Rs 51-8-6 by the 3rd September 1935 which is taken by the President to be the due date.

7. That the payment of the lease amount of the Sewage Farm was in dispute between the Municipal Council and the appelant as the plots of land taken by him for lease in the Sewage Farm was damaged by floods. In fact, owing to the continued neglect of the Municipality in repairing the big nalla a number of plots get flooded and crops cannot be raised properly. The Municipal Council owes the appelant compensation amount for having cut certain portions of the garden which they have not adjusted towards his dues. They seem to have also wrongly included in the Sewage Farm claim-dues for some cocoanut crop which stands on the plot let out to the appelant and which is not part of the lease. They attempted to sell the crop by auction and as they failed to realise a proper sale, they seem to have made the appelant a lessee of the plots responsible for the crop though the latter is not taking the crop. The appelant has also sent up a petition to the Municipal Council on 27-8-1935. The Municipal Council has shown concessions to some

some others for the self same reason and the appealant was claiming the same relief. The Council has not decided the matter finally.

8 The appelant, has, however, paid the balance as per the full demand that Rs 32-4-7, on 12-9-1935. On the same day, the President has passed the Memo disqualifying the appelant, without taking all these matters into consideration.

9. The appelant does not remember the exact date of service of notice on him, but thinks that it is not 3rd.June 1935. The President got him to write out before the Manager of the Municipal Office that the service was on same date in June 1935. The appelant signed something which the Manager had got written. The appelant has reasons to think that if the service of notice as per the acknowledgement of service is taken into consideration it will put off the period for payment of the said arrears to a date long after even 12-9-1935 the date of appelant paying the last balance.

The appelant therefore prays that the Government may be pleased t o take into consideration all the above illegalities and irregularities and direct the continuance of his membership, and further prays that pending a disposal of this appeal the further proceedings to be taken in pursuance of such disqualification may be stayed. B L. Maridaudiah

23-9-35

Mr R M Y.

No G T-1092.
83.

Ml 26-35-28

2192.17
2

OFFICE OF THE PRESIDENT,
CITY MUNICIPAL COUNCIL, MYSORE

Dated 12th November 1935
13

From

M A SREENIVASAN Esq BA
PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

Leg 4/11/35

Ear 15/11

GEN. & REV. SECTT.
16 NOV 1935
LAW DEPARTMENT

The Chief Secretary to
the Government of His Highness
the Maharaja of Mysore, Bangalore

Sir,

With reference to your letter No.L.2388/Ml.26-35-18 dated 17th October 1935 forwarding for report with connected records the petition dated 23-9-1935 from Mr.B.L.Maridandiah, Municipal Councillor appealing against the order of the President disqualifying him from his membership on the Council, I have the honour to forward the marginally noted records and to state as follows

Draft special notice R.T.1086 dated 21/23-5-1935 issued under Section 12(2)(e) of the Regulation.

Statement dated 27-8-1935 by Mr.B.L.Maridandiah(G F.584).

The delivery book and the note of Municipal Advocate have already been sent to Government in connection with the report submitted on the appeal petition of Mr.M.K.KrishnaRao.

A copy of President's Memo No.135 dated 12-9-1935 disqualifying the memoer has been sent to Government as enclosure to this Office letter No.612 dated 12-9-1935.

In the first place it is contended that the President was not competent to issue the special notice in the absence of the delegation of the power to him by the Council in this behalf

The contention appears untenable Section 12 (2)(e) of the Regulation does not require the notice to be issued by the Municipal Council itself

Assuming that the power to issue the special notice was vested in the Municipal Council itself, even then oy virtue of Sections 12 (2) and 24(2) of the Regulation, the executive functions of the Council (the issue and service of notices being executive functions) could be exercised oy the President of the Council subject, only <u>wherever it is expressly so directed in the Regulation</u> to the approval or sanction

19

of the Council and subject to any restrictions or limitations imposed by the Rules framed by the Council.

There is nothing in the Regulation or rules restricting or limiting the executive power of the President in regard to the issue and service of the Special Notice nor any express direction made in the Section itself that the approval of the Council should be obtained for the issue of this notice. Kind reference is also invited in this connection to the decision in the case reported in 19 Mys.C.C.R.(F.B). The subject of discussion and decision in that case related to the duty cast on the President to perform the "executive functions" of the Municipal Council. In that case "the contention that the President has no power to perform the executive acts which the Council has to perform unless he is empowered thereto by some rule prescribed by the Council" was not accepted and it was ruled that the President is empowered to perform the executive functions which may be performed by the Council, unless rules are passed limiting his powers and that he has a free hand in all cases where no special restriction have been put upon him.

The second contention of the petitioner is that the rent due to the Council in respect of certain plots in the Sewage Farm let out to the appellant cannot be included under the term"arrears" used in -- Section 12(2)(e)" which obviously refers to arrears of taxes" An examination of the language employed in Section 12 (2)(e) would show that there is no basis for such an assumption The Section clearly refers to "arrears of any kind" and there is nothing to indicate that it was intended to restrict its application to "arrears of taxes" only.

It is next contended that the demand for 1934-35 cannot be -- construed as "arrears" when only it could be included in a notice under Section 12(2)(e) This contention is also unsupportable. Municipal taxes on buildings are made payable "in advance in July of every year or at the option of the person liable in two equal instalments in advance in July and January every year" (Vide Bye-law No.1 under Section 46(i) of the old Regulation corresponding to Section 49(h) of the present Regulation and Appendix c to the Mysore City Municipal Rules and Bye-laws). Taxes for 1934-35 had, in any case therefore, to be paid in full within the end of January 1935 and they had certainly become arrears at the time

of the issue of the special notice viz.,May 1935. Payment of water rate also being governed by similar rules, the amount of Rs.6/-due as water rate from the appellant for 1934-35 has also to be taken to have fallen in arrear at the time of the special notice.

The Compensation etc, prayed for in connection with the Sewage Farm dues, refered to in paragraph 7 of the appeal petition had neither been admitted nor granted by the Municipal authorities at the time of the special notice. The non inclusion of the amounts due in full, under these circumstances, could not invalidate the notice itself

The payment of Rs.4/- on 6-9-1935 and of Rs.32-4-7 on 12-9-1935 having been made after the expiry of three months prescribed in Section 12(2)(e) cannot be taken into consideration in deciding whether the disability had or had not been incurred by the appellant.

The next point raised is about the date of service of the special notice. It is stated that the appellant does not remember the date of service of the notice, that however it is not 3rd June 1935 and that he was got to write the date of service to be 3rd June 1935.

The date of acknowledgment of the notice, entered in the Delivery book under Mr.Maridandiah's signature or initials,(as the Delivery book has already been submitted to Government in another case I do not clearly remember whether Mr.Maridandiah had initialled or signed his name) appeared to have been overwritten from 3-6-1935 to 3-8-1935 i.e., the figure 6 appeared later to have been altered to look like 8.

When Mr.Maridandiah interviewed me on 27-8-1935 I showed him the book and asked him when he had received the notice, and he admitted he had received the notice on the evening of 3rd June 1935 and that as it was dusk when the notice was served on him, he had perhaps not written the figure '6' clearly and readily agreed to give a statement to clear up the doubt and desired that the statement be got written for him. His statement was accordingly got written for him and he affixed his signature and date after going through the same. In the circumstances the contention is without substance and is apparently an after-thought.

The petition is herewith resubmitted as desired.

I have the honour to be,
Sir,
Your most obedient servant,

M.D. Srinivasa

23

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

URGENT.

No L 2388 Rev 1 / Rev 26-35-18

Dated, Bangalore, 1st October 1935

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore*

To

The President,

City Municipal Council, Mysore.

Sir,

I am directed to forward herewith petition dated 23rd September 1935 from Mr.Meridsndaiya, Municipal Councillor, Mysore, appealing against the order of the President disqualifying him from his membership on the Municipal Council, under Section 12 (2) (e) of the Mysore City Municipalities Regulation 1933, and to request you to submit a report on the petition with the connected records.

x. x.to be returned with the report.

I have the honour to be,

Sir,

Your most obedient servant,

Atreya Rao

For Chief Secretary to Government

Note Card on 2/10/35

25

Appendix F G –1]

SUBJECT Municipal Commission – Negombo

Section Mel

File No 26-35

Serial No 18

Diary No of letter replied to L 1390

No L 2388 Mel/

To

The President, City Council
Negombo

General and Revenue Secretariat

( )

the 193

Sir,

Date of issue 2-10-35

Signed by (for Asst
To be returned with the report)

I am directed to forward herewith petn dated 23 19-9-35 from one Marisandaiya Inde Negombo, appealing against the order given thereon disqualifying him from his ~~candidature to obtain~~ membership as elected on the Mel, under Sec 12(2)(c) Negombo Municipalities Ord 1933, and to request you to submit a report on the petn with the connected records.

I have etc

List of enclosures

Copied by

Examined by

Asst
30/9
for Chief Secy Colombo

Exhibit 27

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 4676 Encl Record
ME26-35-33

Dated, Bangalore, 17th December *193*5.
18

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore*

To

The President,
City Municipal Council, Mysore.

Sir,

With reference to your letter No.G.T.1092 dated 13th November 1935 reporting about the alleged disability of Mr. Maridandiah from continuing as a Municipal Councillor under Section 12(2)(e) of the City Municipalities Regulation, I am directed to request that information may be furnished on the following points.-

1) Whether the rent claimed in respect of the Sewage Farm was an arrear due to the Municipal Council on the date of the special notice in accordance with the terms of the contract under which the plot in question was let out and whether the allegations made in para 7 of the appeal petition are true.

2) Wnether a proper bill and notice of demand were sent to Mr. Maridandiah prior to the special notice.

The petition and records are sent herewith for reference and return.

I have the honour to be,
Sir,
Your most obedient servant,

Asubba Rao
for Chief Secretary to Government.
Rmr

Aga/2.

29

Appendix F G—1]

SUBJECT

Section Ml

File No 26-33

Serial No 33

Diary No of letter replied to

No L4676 Esc Records

To The President, City Municipal Council

Mysore

General and Revenue Secretariat

( )

the *193*

Sir,

Date of issue 18/12

With reference to your letter No

lg T 1092 dated 13-11-35 reporting

about the alleged disability

Signed by M V A S. Rao

of Mr Maridandiah from continuing

as a Municipal Councillor under

section 12-(2)(e) of the City

Municipalities Regulation, I am

directed to request that information

may be furnished on the following

points.—

List of enclosures

1) Whether the rent claimed in

respect of the Sewage Farm was an

Copied by

arrear due to the Municipal Council

Examined by

WD 03601—GPB—30,000—23 9-35

(2)

on the date of the Special notice in accordance

with the terms of the Contract under

which the plot in question was let out

and whether

the allegations made in para 7 of

the appeal petition are true

(2) Whether a proper bill and notice

of demand were sent to Mr Mandandhar

-precursors to the Special notice

The petition & enclosures are sent herewith for reference & return.

J Lumsden

Asst
14/12
for Chief Survey Officer

Rem M

MYPS. M/30/1.

3424/31
L.

From:

B. L. Maridandiah,
Adikarnatakapuram,
M y s o r e.

By Reg Post

CHIEF SECRETARY'S
L Cy
30 JAN 1936

To

The Chief Secretary
to the Government of His Highness
the Maharaja of Mysore, Bangalore.

Early Jan 30/1

Sir,

I beg to state that my appeal against the order of the President, City Municipal Council which I sent on 23-0-1935 has not been disposed of and the seat has been vacant.

I pray that the matter may be disposed of early and that pending the disposal a stay order may issue and I be permitted to attend the Council Meetings.

Thanking you,

Yours faithfully,

B.L. Maridandiah

M y s o r e,
29th January 1936.

Mr 26-35-38 33

No. QT 1764

OFFICE OF THE PRESIDENT,
CITY MUNICIPAL COUNCIL, MYSORE

Dated 19th February 1936.

GEN. & REV. 3850 24 F

From

M A SREENIVASAN Esq BA
PRESIDENT, CITY MUNICIPAL COUNCIL
MYSORE

To
The Chief Secretary to
the Government of His Highness
the Maharaja of Mysore, Bangalore.

CHIEF SECRETARY. L S 9 24 FEB. 1936

Sir,

With reference to your letter No.L.4676/Ml.26-35-33 dated 17th December 1935 calling for further information in the matter of the disability of Mr.Maridandiah from continuing as a Municipal Councillor under Section 12(2)(e) of the City Municipalities Regulation, I have the honour to state as follows -

1) (a) According to Clause (2) of the conditions appended to the terms of the contract, the gutta amount for any year is payable within that year in two instalments in December and June The Special Notice to Mr.Maridandiah was issued in May 1935 and hence the rent for 34-35 was included as an arrear. The Mutchalkas are sent herewith for - reference and return.

(b) In paragraph 7 of the appeal petition, Mr Maridandiah states that the payment of the lease amount of the Sewage Farm was in dispute between the Municipal Council and himself. as the land taken by him for lease in the Sewage Farm was damaged by floods. Mr. Maridandiah presented an application on 3-2-1934 stating that the gardens had been damaged by floods and moisture and that the lease amount due from him on the southern side plots might be waived. In reply, he was given an endorsement No. 803 dated 13-2-1934 stating that no remission of arrears could be granted. He further agreed in his application dated 3-8-34 to pay up the lease dues on 13-8-1934 Office copy of endorsement and his petitions are enclosed for reference.

(c) Compensation referred to in para 7 of the appeal petition

ad neither been admitted nor granted by the Municipal Authorities at the time of the Special Notice, as already stated in this Office No. G T.1092 dated 13-11-1935. It is true that the cocoanut trees mentioned in the aforesaid paragraph are not included as an item of lease in the Lutchalikas But it is reported that when the Farm authorities wanted to lease out the cocoanut trees standing on all the plots Mr.Maridandiah as well as the other lessees represented that it would be a very serious handicap to them if the cocoanut trees were let out separately and that Mr.Maridandiah agreed to take the said trees himself and has in fact paid the Rs.7/- for the 7 cocoanut trees standing on his plot in the year 1933-34.

2) Bills in respect of Mohatarfa and water dues amounting to Rs 16-11-9 and Rs.6-0-0 were issued to Mr Maridandiah on 31-1-35 and 25-1-35 respectively. Though no formal bill was sent in respect of Sewage Farm dues a letter was sent to him in this Office No.502 dated 9-11-1934 demanding payment of the same. A copy of this letter is enclosed for reference. It is further submitted that the procedure prescribed in Section 95 of the City Municipalities Regulation need not necessarily be followed in connection with the recovery of rent due to the Council in respect of the Sewage Farm plots.

An examination of the language of Section 12(2)(e) and that of Section 95 would seem to indicate that for action to be taken under the former provision, it is not incumbent that the formalities prescribed in the latter provision should have been observed which appears to be imperative only when action is taken under Chapter VIII of the Regulation. "The obligation to pay the taxes arises whether it is demanded or not" and when there is an obligation to pay it may quite correctly be stated that the taxes are "due" even without demand (Vide.P D.Iyengar's Law of Municipal Corporations 1924 Edn.at Page 380).

The records received with your letter under reference are herewith retransmitted.

I have the honour to be,
Sir,
Your most obedient servant,

President.

SSR.

88

37

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 16th April 1936

No L 7860 Enel Records
Mel 26-35-39

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore*

To

The President,
City Municipal Council,
Mysore.

Sir,

With reference to the correspondence ending with your letter No.G.T.1764 dated 20th February 1936 regarding the disability of Mr. Maridandiah from continuing as a Municipal Councillor of the Mysore City Municipal Council, I am directed to state that though the special notice issued to the gentleman contained an aggregate demand for Rs.87-13-1 made up of Rs.13-11-9 towards municipal taxes Rs.6 towards flat rate and Rs.68-1-4 towards Sewage Farm dues, neither the records nor the appeal petition give information as to when these amounts become due and which of these items or what portion of it is contested by Mr Maridandiah as a premature demand. I am therefore to request that Mr. Maridandiah may be called upon to specify the items he disputes and what amount cannot be treated as arrears according to his contention and that his statement may be forward ed along with your remarks thereon.

Three copies of the Rules and Bylaws of the Municipality posted up to date may also be forwarded for reference.

The records accompany.

I have the honour to be,
Sir,
Your most obedient servant,

Jan Draft

for Chief Secretary to Government.

ACH.2.

Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the *193*

Date of issue 16. 6 36

Signed by M A S

List of enclosures

Copied by 16/6

Examined by

Section ml

File No 26-35

Serial No 39

No L 7860 Encl Recd

To

The President, City Municipal Council,

Mysore

Sir,

With reference to the correspondence ending with your letter No. G.T. 1764 dated 20-2-36 regarding the disability of Mr Narsandiah, from continuing as a Municipal Councillor of the Mysore City Municipal Council, I am directed to state that though the special notice issued to the gentleman contained an aggregate demand for Rs ~~87-13-1~~ 87-13-1 made up of Rs 13-11-9 towards ~~taxes~~, municipal taxes, Rs 6 towards flat rate and

WD 03601—GPB—30,000—23 9 35

Rs 68-1-4 towards Sewage Farm dues,
~~neither the records nor the official letter~~
~~the Records of Lawsuit~~ give information as to when
these amounts became due and which of
those items or what portion of it is contested by
Mr. Marudanaikh as a premature demand

I am therefore to request that Mr Marudanaikh
may be called upon to ~~formulate his objection~~
~~more definitely and~~ to specify the items
he disputes, and that his statement may be accompanied by this Letter
forwarded along with your remarks thereon.
and what items amount to Lawsuits cannot be treated as arrear

Three copies of the Rules and Bylaws
of the Municipality posted up to date may also
be forwarded for reference

No records accompany.

I have &c

11-4-36
for Chief Secy to Govt

No G.T 2368
8 11 and 3 copies
+ Rules + Byelaws

OFFICE OF THE PRESIDENT
CITY MUNICIPAL COUNCIL MYSORE

Dated 8th May 1936.

9

5201

From

M A SREENIVASAN Esq BA
PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

Ml 26-35-40

To

The Chief Secretary to
the Government of His Highness the Maharaja
of Mysore,
BANGALORE.

11 MAY 1936

Sir,

With reference to your letter No.L.7860/Ml.26-35-39 dated 16-4-1936, calling for further particulars in regard to the disability incurred by Mr.Maridandiah from continuing as a Municipal Councillor, I have the honour to state that Mr.Maridandiah was called upon to furnish a statement specifying which of the items of arrears mentioned in the special notice he disputes, and what amount cannot, according to his contention, be treated as arrears. In reply, he has sent a communication dated 2-5-1936, which is sent herewith in original. According to his letter, one of the items of arrears he disputes is Rs.68-1-4, representing the - Sewage Farm dues His grounds for dispute are almost the same as those mentioned in his appeal petition dated 23-9-1935, and are mainly (1) that the plots of land leased out to him were damaged by floods and (2) that the Municipality cut some portions of the betel vine garden and that compensation therefor was not paid, and (3) that the cocoanut crop leased out to him does not form part of the lease These points have already been answered in paragraph I (b) & (c) of my letter No.G.T 1764 dated 20-2- 1936 and there is nothing more to add. Mr Maridandiah disputes also the demand for 1934-35 included in the special notce issued in May 1935 on the ground that it is not an arrear. That the demand for 1934-35 is rightly an arrear is explained in paragraph of my letter G T.No.1092 dated 13-11-1935

Mr.Maridandiah states that the items disputed by him viz. the Sewage Farm dues and the taxes for 1934-35 cannot be treated

treated as arrears. That the Sewage Farm dues are an item of arrear as contemplated in Section 12 (2) (e) of the City Municipalities Regulation, and that the taxes for 1934-35 are also an arrear, the tax for any year being payable in advance in July, or in two equal instalments in advance in July and January of that year, are explained in my letter of 13-11-1935 quoted above.

The papers received with your letter under reference are herewith returned together with three copies of the Rules and Bye-laws of this Municipality posted up to date

I have the honour to be,

Sir,

Your most obedient Servant,

PRESIDENT.

MLN

Rec'd 2 5 36

Am xx Submit particulars to Govt now with any delay 2/5

8715

The President,

City Municipal Council,

M y s o r e.

Sir,

In reply to your letter No. G.T. 2251 dated 25-4-1936 I write to state that I have mentioned all the details required by you are already contained in my appeal petition to Government.

1. Re. the items of arrears in dispute.

I have said in paras 3 and 4 of the appeal memo that dues to the Sewage Farm of Rs 68-1-4 cannot be construed to be arrears as contemplated under S.12 Cl.2 (e) which obviously applies to arrears of taxes. Secondly that this sum of Rs 68-1-4 is itself in dispute as the plots of land leased out to me were damaged by floods owing particularly to the nonrepairing of the big nalla. Besides the Municipality has cut some portions of the beetle vine garden and the compensation assured at the time has not been paid. Then again the cocoanut crop of the trees standing in the plots leased to me does not form part of the lease Snce the attempt to sell the crop proved a failure I have been debited with the crop realisation. I have already disputed these items. The Council has shown some concessions to other lessees but in my case nothing has been decided as yet.

Besides, the items in dispute the Municipality has wrongly included as arrears the demand for 1934-35 in the special notice which has issued on 23-5-1935 which is illegal. The Municipal Office can calculate what amount out of Rs 87-13-1 represents the dues for the year 1934-35. I can only say roughly as follows -

P.T.O

DoorNo. 1942 for 34-35	...	0-13- 6
-do- 34-35	...	3-11- 9
(Vide receipts dated 17-4-35 & 2-9-35)		
DoorNo. 952, Fort Mohalla		6- 0- 0
(Vide receipt No. 48/3-9-35)		
Sewage Farm dues for 34-35		15-14- 0
(Vide receipt dated 4-9-35)		
Sewage Farm dues for 34-35		
(vide receipt dated 12-9-35)		
	Rs	43- 2- 3

The above is only an approximate sum as your special notice gives no details as regards the years or items re.properties.

2. Re. items which cannot be treated as arrears.

Obviously the items disputed by me as above cannot be treated as arrears.

a) The Sewage Farm dues are not arrears.

b) The Sewage Farm dues are themselves in dispute and the matter has not yet been decided. Pending disposal of the question they cannot be included as arrears in any case.

c) The taxes of the house properties for the year 1934-35 and the alleged Sewage Farm dues for the year 1934-35 cannot in any case be treated as arrears for purposes of issuing of notice in the year 1934-35 itself.

I have only reiterated what is contained in my appeal memo. I regret to note that the depressed classes are without representation on the Council for the last seven months and more and that the further particulars are called for after so long a time. If a hearing had been given to me as soon as my appeal was filed I would have given all the particulars.

May I request you to kindly convey to Government my submission that the matter may be disposed of early.

Yours faithfully,

B.L Maridaiah

2-5-1936

From
P.L. Maridaiah,
Adikarnatakapura,
Mysore.

G R S App F VI—G 2]

SUBJECT

47

Diary No of letter replied to

General and Revenue Secretariat

( )

the *193*

Date of issue 25-6 1936

Signed by M. A. S.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette Kannada Part ?

Draft I

Section Ml

File No 26-35

Serial No 41

Proceedings of the Government of His Highness the Maharaja of Mysore

Read— Petition dated 23-9-35 from Mr. B L. Marudanaiah, ~~Municipal Commissioner~~, Mysore city, appealing against the order of the President, Mysore city Municipal Council, declaring him to have been disabled from continuing as a ~~Order thereon—No~~ Municipal Councillor under Section 12(2)(e) of the Mysore City Municipalities Regulation 1933, on account of the non-payment of the arrears of certain taxes due by him in accordance with a special notice issued to him in this behalf

P. T. O

Order No L. C 9695 of 28/6/36

The grounds on which the appeal is made by Mr. Marisamiah are the following.—

1) That the President was not competent to issue a special notice in the absence of such a power being delegated to him by the Municipal Council.

(2) That he had paid off all the arrears of taxes by the 3rd September 1935

(3) That the Sewage Farm dues cannot be construed to be arrears as contemplated under Section 12(2)(c) of the City Municipalities Regulation, which obviously refer to arrears of taxes

(4) That in the special notice, the current demand for 1934-35 ~~has been~~ was wrongly included, ~~which cannot~~ or it could not be treated as arrears

List of Enclosure

(5) That the date of ~~the~~ service of the special notice to him was not 3-6-35 but some later date.

2 The Municipal President from whom a report was called for, ~~states (1) that he~~ is empowered to perform the executive functions of the Municipal Council, which include the issue of the special notice, ~~being one of such functions, unless rules are passed limiting~~

Copied by

Examined by

~~his powers in this respect (2)~~ and

(2) that Section 12(2)(c) of the Regulation applies to arrears of any kind, disability to pay any portion of which would involve the disability contemplated; (3) that as Municipal taxes on buildings are made payable in advance in July of every year or at the option of the person liable in two equal instalments in advance in July and January every year, ~~and that~~ the taxes due for 1934-35 had in any case to be paid within the end of January 1935 and ~~that they~~ had certainly become arrears at the time of the issue of the appeal notice dated 3-6-35, (4) that Mr. Mahadevaiah has given a written statement that he received the appeal notice on 3-6-1935 and that he had put the date of acknowledgment on the delivery book as 3-8-35 by mistake and (5)

GPB—12,000—15-2-13.

as
that the arrears had not been paid in
full before 3-9-1935, Mr Marudamiah
~~has~~ incurred the disability and ~~he cannot~~ could not
therefore continue as a Municipal Councillor.

3. We ~~do~~ hold that the President was
competent to issue the Special notice.
They also
~~We~~ agree with the views expressed by
him in regard to first above (2), (4) & (5). In regard to first (3),
though the instalment payable in June 35
cannot be said to have been in arrears when
the special notice was issued, it is yet
clear that Mr Marudamiah was heavily in
arrears by then and the inclusion of
the amount in the notice did not vitiate
the notice. Further, the notice was issued
not for recovering the municipal dues under
Chapter VIII, but only for taking action under
Section 12 (2)(a) of the Regulation.

For the foregoing reasons, the order of the
President is upheld and the appeal petitions
rejected.

Sd/-
Chief Secy to Govt
Rsm

The President, City Municipal Council, Mysore
with records

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read –

Petition dated 23rd September 1935 from Mr. B. L. Maradandiah, Mysore City, appealing against the order of the President, Mysore City Municipal Council, declaring him to have been disabled from continuing as a Municipal Councillor under Section 12 (2)(e) of the Mysore City Municipalities Regulation 1933, on account of the nonpayment of the arrears of certain taxes due by him in accordance with a special notice issued to him in this behalf.

- - -

Order No. L 9695-Ml 26-35-41
Bangalore, dated the 25th June 1936.

The grounds on which the appeal is made by Mr. Maradandiah are the following.-

1) That the President was not competent to issue a special notice in the absence of such a power being delegated to him by the Municipal Council.

2) That he had paid off all the arrears of taxes by the 3rd September 1935.

3) That the Sewage Farm dues cannot be construed to be arrears as contemplated under Section 12 (2) (e) of the City Municipalities Regulation, which obviously refer to arrears of Municipal taxes.

4) That in the special notice, the current demand for 1934-35 was wrongly included as it could not be treated as arrears.

5) That the date of service of the special notice to him was not 3rd June 1935 but some later date.

2. The Municipal President from whom a report was called for, states (1) that he is empowered to perform the executive functions of the Municipal Council which include the issue of the special notice, (2) that Section 12 (2) (e) of the Regulation applies to arrears of any kind, disability to pay any portion of which would involve the disability contemplated, (3) that as Municipal taxes on buildings are made payable in advance in July of every year

or

or at the option of the person liable in two equal instalments in advance in July and January every year, the taxes due for 1934-35 had to be paid in any case within the end of January 1935 and had certainly become arrears at the time of the issue of the special notice dated 3rd June 1935; (4) that Mr. Maridandiah has given a written statement that he received the special notice on 3rd June 1935 and that he had put the date of acknowledgment in the delivery book as 3rd August 1935 by mistake and (5) that as the arrears had not been paid in full before 3rd September 1935, Mr. Maridandiah incurred the disability and could not therefore continue as a Municipal Councillor.

3. Government hold that the President was competent to issue the special notice. They also agree with the views expressed by him in regard to points (2) (4) and (5). In regard to point (3) though the instalment payable in June 1935 cannot be said to have been in arrears when the special notice was issued, it is yet clear that Mr. Maridandiah was heavily in arrears by then and the inclusion of the amount in the notice did not vitiate the notice.

4 For the foregoing reasons, the order of the President, is upheld and the appeal petition rejected.

Adukkarao

For Chief Secretary to Government.

To

The President, City Municipal Council, Mysore

with records.

bnl.2

Appendix F G—1]

SUBJECT

503

Diary No of letter replied to

General and Revenue Secretariat

( )

the 193

Date of issue 25-6-36

Signed by Mr. A. S.

List of enclosures

Copied by

Examined by

Section

File No

Serial No

Draft II

No L 9696

To

Mr B L Mandandiah

Adhikaranatakapura

Mysore

With reference to his petition dated 23-9-35 appealing against the order of the President, Mysore city Municipal Council, declaring him to have been disabled from continuing as a Municipal Councillor under Section 12(2)(e) of the city Municipal Regulation, 1933, Mr. Mandandiah is informed that the President's order is upheld ~~has been confirmed~~ and his appeal rejected.

By order

Asst to the Chief Secy to Govt

L 9697 dt 25.6.36

Copy to the President, City Mcl, Mysore

WD 03601—GPB—30,000—23 9 35